



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

North Mall Office Building

725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

March 2, 2012

LOWELL PATTON
PO BOX 85
CLACKAMAS, OR 97015

Reference: File G-17478

Dear Applicant:

**THIS IS NOT A PERMIT AND IS
SUBJECT TO CHANGE AT THE NEXT PHASE OF PROCESSING.**

This letter is to inform you of the preliminary analysis of your water-use permit application and to describe your options. In determining whether an application may be approved, the Department must consider the factors listed below, all of which must be favorable to the proposed use if it is to be allowed. Based on the information you have supplied, the Water Resources Department has made the following preliminary determinations:

Initial Review Determinations:

1. The application proposed the appropriation of 0.11 cubic foot per second (CFS) from Well A-1 (CLAC 4075) in Clackamas River Basin for irrigation of 40.0 acres and supplemental irrigation of 44.0 acres March 1 through October 31.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The appropriation of water from Well A-1 (CLAC 4075) in Clackamas River Basin for irrigation is allowable under the Willamette Basin Program.
4. Ground water will likely be available within the capacity of the resource, and if properly conditioned, the proposed use of ground water will avoid injury to existing ground water rights.

The Department has determined, based upon OAR 690-009, that the proposed ground water use will have the potential for substantial interference with Clackamas River. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered.

Surface water is not available during the period July 1 through October 31.

5. The application requested the appropriation of ground water for supplemental irrigation of 44.0 acres; however, it appears that there is no underlying primary irrigation water right for these acres. The Department will consider the application for irrigation of 84.0 acres, unless you notify the Department in writing that you do not wish to pursue primary irrigation of the 44.0 acres proposed for supplemental irrigation.
6. The Department has determined that Well A-1 (CLAC 4075) may not meet current minimum well construction standards. Prior to the issuance of a permit, evidence demonstrating compliance with well construction standards must be submitted and approved by the Department. In repairing the well(s), you should work closely with the Department and/or a licensed well constructor to ensure that repairs are carried out in a manner that will not violate well construction or other rules. You are encouraged to contact Kris Byrd of the Department's Well Construction and Compliance Section at 503-986-0851 to determine how to proceed.

Please note that repair of the well(s) will not necessarily overcome the potential for substantial interference with surface water and might not result in the issuance of a permit.

Please also note that regardless of the outcome of this application, you will need to work with the Department to either repair or abandon the well(s) to comply with the minimum standards for the construction, conversion, alteration, maintenance, and abandonment of water supply wells in order to protect the state's ground water supply (OAR 690-200).

7. The application is subject to Section 4(d) of the Endangered Species Act.
8. Please refer to the **Additional Information Required** section below for specific information regarding deficiencies with the application.

Summary of Allowable Water Use

Because not all items above are favorable, the use of 0.11 CFS of water from Well A-1 (CLAC 4075) in Clackamas River Basin for irrigation of 84.0 acres is not allowable, and it appears unlikely that you will be issued a permit unless a suitable mitigation proposal is provided prior to issuance of the Proposed Final Order. At this time, you must decide whether to proceed or to withdraw your application as described below.

Additional Information Required:

Although it is unlikely that a permit will be issued, if the Department's findings change, additional information will be required prior to issuance of any Proposed Final Order that may recommend permit approval. Please provide the following:

- Documentation that demonstrates the proposed use complies with the local acknowledged comprehensive land-use plan, or that you are actively pursuing approval from the Clackamas County Planning Department. Please submit a Land Use Information Form completed and signed by a representative of the Clackamas County regarding land use compatibility. If you demonstrate you are pursuing approval, the Department can continue to process the application and issue a Proposed Final Order and a Final Order

even when land use approval has not been obtained. However, before a permit will be issued the Department must receive documentation from the relevant planning jurisdiction that either 1) the proposed use is allowed outright or 2) that an approved land-use decision has been obtained, and that either no administrative appeals were received, or all such appeals have concluded.

Please submit this information no later than April 5, 2012. If you are unable to submit the information listed above, you may request an administrative hold for up to an additional 180 days. You must submit the request in writing, stating how much more time you will need and why you need additional time. If an administrative hold is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

If we do not receive the items requested above or a request for an administrative hold by this date, the Department will likely proceed with a Proposed Final Order recommending denial of the application.

Please reference the application number when sending any correspondence regarding the conclusions of this Initial Review. Comments received within the comment period will be evaluated at the next phase of the process.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$200 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, March 16, 2012**. For your convenience you may use the enclosed "STOP PROCESSING" form.

To Proceed With Your Application:

If you choose to proceed with your application, you do not have to notify the Department. Your application will automatically be placed on the Department's Public Notice to allow others the opportunity to comment. After the comment period the Department will complete a public interest review and issue a Proposed Final Order.

If A Permit Is Issued It Will Likely Include The Following Conditions:

1. Measurement, recording and reporting conditions:
 - A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of appropriation. The permittee shall maintain the meter or measuring device in good working order.
 - B. The permittee shall keep a complete record of the amount of water diverted each month, and shall submit a report which includes the recorded report water-use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.

- C. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where any meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval. Measurement, recording and reporting conditions:
 - 2. If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may be subject to cancellation, unless the Department authorizes the change in writing.
 - 3. Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.
 - 4. To monitor the effect of water use from the well(s) authorized under this permit, the Department requires the water user to obtain, from a qualified individual (see below), and report annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

Measurements must be made according to the following schedule:

Before Use of Water Takes Place

Initial and Annual Measurements

The Department requires the permittee to report an initial water level measurement in the month specified above once well construction is complete and annually thereafter until use of water begins; and

After Use of Water has Begun

Seven Consecutive Annual Measurements

Following the first year of water use, the user shall report seven consecutive annual static water level measurements. The first of these seven annual measurements will establish the reference level against which future annual measurements will be compared. Based on an analysis of the data collected, the Director may require the user to obtain and report additional annual static water level measurements beyond the seven year minimum reporting period. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- A. Identify each well with its associated measurement; and
- B. Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method used to obtain each well measurement; and
- D. Certify the accuracy of all measurements and calculations reported to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- A. Annual water level measurements reveal an average water level decline of three or more feet per year for five consecutive years; or
- B. Annual water level measurements reveal a water level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water level measurements reveal a water level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

The period of non-use or restricted use shall continue until the water level rises above the decline level which triggered the action or until the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

This initial review does not attempt to address various public interest issues such as sensitive, threatened, or endangered fish species. These issues will be addressed as the Department reviews comments from the public and other agencies, and prepares a Proposed Final Order. You should be aware that, if significant public interest issues are found to exist, such a finding could have an impact on the eventual outcome of your application.

The water source identified in your application may be affected by an Agricultural Water Quality Management Area Plan. These plans are developed by the Oregon Department of Agriculture (ODA) with the cooperation of local landowners and other interested stakeholders, and help to ensure that current and new appropriations of water are done in a way that does not adversely harm the environment. You are encouraged to explore ODA's Water Quality Program web site at http://www.oregon.gov/ODA/NRD/water_agplans.shtml to learn more about the plans and how they may affect your proposed water use.

If you have any questions:

Feel free to call me at 503-986-0816 if you have any questions regarding the contents of this letter or your application. Please have your application number available if you call. General questions about water rights and water use permits should be directed to our customer service staff at 503-986-0801. When corresponding by mail, please use this address: Kerry Kavanagh, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Kerry Kavanagh
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17478
WAB 2- 80
POU 2- 80
GW

APPLICATION FACT SHEET

Application File Number: G-17478

Applicant: LOWELL PATTON

County: Clackamas

Watermaster: 20

Priority Date: July 1, 2011

Source: WELL A-1 (CLAC 4075) IN CLACKAMAS RIVER BASIN

Use: IRRIGATION OF 40.0 ACRES; SUPPLEMENTAL IRRIGATION OF 44.0 ACRES

Quantity: 0.11 CUBIC FOOT PER SECOND

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 23 CLACKAMAS R

Well Location: SENE, SECTION 13, T2S, R2E, W.M.; 1760 FEET SOUTH AND 225 FEET WEST FROM NE CORNER, SECTION 13

Place of Use:

	<u>Primary</u>	<u>Supplemental</u>
NE $\frac{1}{4}$ NE $\frac{1}{4}$		7.0 ACRES
SECTION 13		
TOWNSHIP 2 SOUTH, RANGE 2 EAST, W.M.		
NE $\frac{1}{4}$ NW $\frac{1}{4}$	17.0 ACRES	23.0 ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$	8.0 ACRES	14.0 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$	10.0 ACRES	
SE $\frac{1}{4}$ NW $\frac{1}{4}$	5.0 ACRES	
SECTION 18		
TOWNSHIP 2 SOUTH, RANGE 3 EAST, W.M.		

14 DAY STOP PROCESSING DEADLINE DATE: Friday, March 16, 2012

PUBLIC NOTICE DATE: Tuesday, March 6, 2012

30 DAY COMMENT DEADLINE DATE: Thursday, April 5, 2012

Mailing List for IR Copies

Application #G-17478

IR Date: March 3, 2012

Original mailed to applicant:

LOWELL PATTON
PO BOX 85
CLACKAMAS, OR 97015

Copies sent to:

1. WRD - File # G-17478
2. WRD - Water Availability: Ken Stahr

<p>Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)</p>

IR, Map, and Fact Sheet Copies sent via e-mail to:

3. WRD - Watermaster # 20
4. ODFW -
5. DEQ -

IR, Map, and Fact Sheet Copies sent to:

6. Department of Agriculture
7. Kim Kratz, Northwest Fisheries Science Center, NOAA Fisheries,
2725 Montlake Blvd E, Seattle, WA 98112
8. Paul Hensen, State Supervisor, US Fish & Wildlife Service,
Oregon Fish & Wildlife Office, 2600 SE 98th Avenue, Suite 100, Portland, OR 97266

Affected Landowners (include "Notice of Initial Review--Affected Landowner")

Affected District (include "Notice of Initial Review--Affected District")

Copies sent to Other Interested Persons (CWRE, Agent, Well Driller, Commenter, etc.)

Caseworker: Kerry Kavanagh

VCOPYSHT.IR